

**APPLICANT:** James F. Allsup  
**SERIAL NO.:**  
**FILED:**  
**EXAMINER:** Alexander Kalinowski  
**DOCKET NO.:** 7554  
**GROUP ART UNIT:** 3626  
**FOR:** Long Term Disability Overpayment Recovery Service With Post Award Service and Savings Program and Financial Assistance

**Supplemental Declaration of Barry Wolfson**

I, Barry Wolfson, do hereby declare as follows:

1. My name is Barry Wolfson, and I reside at 176 Griswold Drive, West Hartford, Connecticut 06119.
2. I am making this second declaration on behalf of James F. Allsup, the named inventor on the above-referenced patent application.
3. This declaration is intended to supplement the Declaration of Barry Wolfson dated February 22, 2003. Nothing in this declaration changes any statement or opinion included in my first declaration.
4. As I stated in my first declaration, I am familiar with all aspects of the long-term disability insurance industry and have worked in this industry for over 35 years.
5. I presently work as a consultant in this industry. I have occasionally worked as a consultant to Allsup, Inc. since May 2003.
6. I worked for Aetna from 1965 until I retired at the end of 2002. In 1983 I started Aetna's Social Security Advocacy Program, which hired skilled Social

Security representatives (attorneys and non-attorneys) to assist Long Term Disability claimants in obtaining Social Security Disability benefits. This process involved the recovery of any overpayments that resulted after the Social Security award was received.

7. Based upon my 35 years of experience in the LTD insurance industry, I would consider myself to have considerable expertise in Long Term Disability insurance claim practices, including the recovery long-term disability benefit overpayments.

8. I have reviewed the SSDC brochure cited by the patent examiner. I am familiar with SSDC and the services it offered around 1993.

9. From the early 1990s until 2002, Aetna was the insurance carrier for the State of Michigan, providing Long Term Disability benefits and claim services.

10. At the same time SSDC, was retained by the State of Michigan to obtain benefits for its employees from the Social Security Administration. Since the State of Michigan was a client of both Aetna and SSDC, I am very familiar with SSDC's services, particularly around 1993.

11. The State of Michigan had a significant problem with recovering overpaid benefits from the insured after an award of SSDI. I was familiar with the extent of this problem because I had access to the statistics and records through our Grand Rapids office.

12. Although SSDC did a good job of securing SSDI benefits for claimants, to the best of my knowledge, it was not engaged in any system for recovering overpaid benefits after securing the benefit.

13. It is my opinion that, if SSDC had or knew of any system or method of recovering overpaid long-term disability benefits in the early 1990s, it would have marketed that product to the State of Michigan in response to the significant problem the state was having recovering Social Security overpayments.

Similarly, if SSDC's own brochure had indicated or suggested that such a service was available, one knowledgeable with LTD claim practices would have requested SSDC to develop such a program to respond to the State of Michigan's needs.

14. In my opinion, the SSDC brochure does not indicate or suggest to one who is knowledgeable with LTD claim practices, any method or system for recovering overpaid benefits. It certainly does not indicate that there is an electronic overpayment recovery service or any program that includes all of the complex steps that were developed in Mr. Allsup's novel system.

15. As one who is familiar and knowledgeable of LTD industry claim practices, the quote, "Coordination of overpayment recoveries resulting from SSDIB awards" contained in the SSDC brochure does not suggest to me any method of recovering overpayments. I found the brochure vague in that it was not clear what the term "Coordination" was intended to mean or if SSDC was offering any particular service.

16. To the best of my knowledge, SSDC's only participation in the recovery of overpayments was to emphasize to the claimant his or her obligation to repay the overpaid benefit to the carrier, for example, to Aetna, and that SSDC took no active role in a recovery. I believe that the statement "Coordination of

overpayment recoveries resulting from SSDIB awards" refers to that limited activity. However, this assumption is based upon my knowledge of SSDC's business practices at the time, and not from an objective reading of the brochure, which, by itself, teaches or suggests nothing substantive.

17. It was the responsibility of Aetna's Claim Department to recover Social Security overpayments directly from the LTD claimant after receipt of the SSDI award. While our claimants repaid some overpayments in their entirety, in a lump sum, a significant number of overpayments were only partially repaid, or required Aetna to withhold future LTD benefits. It took years to recover some overpayments and some were never recovered.

18. I cannot overemphasize the extent of the need in the industry for a method of recovering overpaid benefits.

19. In approximately 2002, I participated in a meeting with the SSA, along with representatives of nine or ten of the largest LTDI carriers, to address the industry-wide problem of non-recovered overpaid benefits and to determine if there were any steps the SSA could take to facilitate such recoveries. Most of the participants were not participating in the Allsup overpayment system at the time of the meeting.

20. It is my understanding that subsequent to the meeting with the SSA, several of the participants have since subscribed to, or are seriously considering, the Allsup overpayment recovery system. I think the fact that the largest LTDI carriers in the industry could not develop a satisfactory method on their own

points to the novelty and non-obviousness of Mr. Allsup's invention, as well as its commercial value.

21. As one with expertise and knowledge of the LTD insurance industry and its claim practices including overpayment recovery, it's my opinion that there was a need for an Overpayment Recovery Service in the LTD insurance industry. If there was any indication that such an automated overpayment recovery process or service existed in SSDC's or any other Social Security vendor's brochures, or in marketing materials offered by LTD insurance carriers, that overpayment recovery service would have been developed, marketed, and utilized well before the development of Mr. Allsup's unique electronic overpayment recovery service.

22. However, to the best of my knowledge, Mr. Allsup was the first to develop a successful automated overpayment recovery service that meets the needs of the industry.

I further declare under penalty of perjury pursuant to the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed by me on January 12, 2004 at West Hartford, Connecticut.

Barry Wolfson

A handwritten signature in dark ink, appearing to read "Barry Wolfson", written over a horizontal line.